IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.7994 OF 2005

Tuticorin Town Merchants Central Association. ...
Petitioner.
Vs.
Reserve Bank of India. ...Respondent.
....
Mr.Geogy Jacob i/b. Geogy Jacob & Associates for the Petitioner.
Mr. Kunal Damle i/b. Udwadia & Udeshi for the Respondent.
.....
CORAM : F.I. REBELLO, J. AND
DR.D.Y.CHANDRACHUD, J.

February 2, 2006.

P.C.

The Petitioner, an Association of small and medium traders and industrialists based at Tuticorin, have moved this Court contending that the exclusion of the scheduled private banks from the operation of the circular dated 3rd September 2005 is arbitrary.

On behalf of the Reserve Bank of India an affidavit has been filed by Smt.R. P. Hebbar, Assistant General Manager, Rural Planning and Credit Department. In para 16 dealing with the averments in para 5 of the Petition, it is set out that the circular dated 3rd September 2005 is in the nature of guidelines to public sector banks at the instance of Government of India and are

issued under Section 36 of the Banking Regulation Act, 1949, which are directory in nature. In other words, what is set out is that these guidelines are not binding on the banks and it is further set out that the private sector banks are free to formulate their own policy. It is then set out that public sector bank and private sector bank form a separate and distinct class by themselves based on intelligible differentia and there is nexus to the object to be achieved to reduce NPAs of public sector banks by the Government which is major shareholder of most of the public sector banks. It appears from the averments in para 8 of the affidavit that the Ministry of Finance prepared a policy packet for stepping up credit to small and medium Enterprises and placed the same before the Parliament on 10th August 2005. The policy papers were forwarded by a letter dated 11th August 2005 to Reserve Bank of India and other public sector banks requesting them to take all necessary steps to follow the policy in letter and spirit. It would thus be clear that the directives would be in the matter where the Government of India has an interest viz., public sector banks and the directions issued under Section 36 would be limited to such banks.

The classification, therefore, between the public sector and private sector banks cannot be said to be unreasonable, considering the object of the scheme of reduction in NPAs of public sector bank. Apart from that it is always open to the private sector scheduled banks to device their own ways for reducing their NPAs. The directions as issued are not under Section 35A and are under Section 36. The Petitioner cannot now contend that the Reserve Bank of India should include them in the said circular. Having said so, we are clearly of the opinion that there is no merit in this petition. If there is any other relief, it is for the Petitioner to move the Reserve Bank of India and the Reserve Bank of India to decide if such a representation is made. With the above observations, the petition stands disposed of.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)